

H12318

CONGRESSIONAL RECORD—HOUSE

December 22, 1970

roduced by our colleague, the Honorable OMAR BURLESON, is to permit certain hospitals which have had difficulty in securing required nursing services to continue to participate in medicare for up to 5 years under specified conditions.

The Secretary of Health, Education, and Welfare would be empowered to grant waivers, no longer than a year at a time, on the requirement that the hospital have registered professional nurses on duty around the clock. The requirement could be waived only if:

First, the hospital has a registered nurse on the day shift and is making bona fide efforts to hire registered nurses for all shifts;

Second, the hospital is located in an isolated geographic area with no other medicare hospitals within a reasonable distance; and

Third, hospital services to medicare beneficiaries in the area would be seriously reduced if the hospital could not participate in medicare.

Enactment of this bill will assure that medicare beneficiaries living in remote areas will not be denied access to the only hospital care available in their communities. The committee is unanimous in recommending enactment of H.R. 19470.

Mr. BYRNES of Wisconsin. Mr. Speaker, I rise in support of H.R. 19470, a bill which would enable small hospitals in rural areas to continue qualifying as providers under medicare even if they are temporarily unable to obtain certain nursing services required by the law.

As we all know, Mr. Speaker, a number of hospital throughout the country have great difficulty in finding and employing enough professional registered nurses. This is particularly true in sparsely populated areas.

Although the medicare law was designed to recognize hospitals with facilities, equipment, and personnel deemed adequate by nationally accepted standards, it also was designed to assure continuing availability of institutional care for medicare beneficiaries. Consequently, the Social Security Administration has adopted the practice of certifying certain institutions as "access" hospitals, which means that they can retain medicare status if they strive to upgrade staff and plant deficiencies which have been documented.

One of the most prevalent documented deficiencies has been in registered professional nursing staffs. And in order to deal with this particular problem, H.R. 19470 would authorize the Secretary of Health, Education, and Welfare to waive the requirement that an access hospital have registered professional nurses on duty 24 hours a day if the following conditions could be met:

First, The hospital would be required to have at least one registered nurse on the day shift and would have to show that it was making a continuing effort to fill the gap on other shifts.

Second, It would have to be situated in a remote area where hospitals as well as nurses were in short supply.

Third, Participating hospitals would have to be so scarce and/or far away that nonparticipation of this particular access hospital would "seriously reduce"

the availability of hospital services to medicare beneficiaries.

The proposed waiver could be granted by the Secretary only for a year at a time, and would expire at the end of 1975.

Mr. Speaker, the committee was unanimous in reporting this bill, and I urge the House to take affirmative action now.

The bill was ordered to be engrossed and read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

COUNTING OF CERTAIN FEDERAL EMPLOYMENT TOWARD RETIREMENT

Mr. BOGGS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (S. 2984) to permit service performed as a temporary employee of the field service of the Post Office Department to be counted toward civil service retirement, which was unanimously reported to the House by the Committee on Ways and Means.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The Clerk read the bill as follows:

S. 2984

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 115 of the Social Security Amendments of 1954 is hereby repealed.

SEC. 2. (a) The repeal of such section 115, made by the first section of this Act, shall not apply in the case of a person who, on the date of enactment of this Act, is receiving or is entitled to receive benefits under any retirement system established by the United States or any instrumentality thereof unless he requests, in writing, the office which administers his retirement system to apply it in his case.

(b) Any additional benefits payable pursuant to a request made under subsection (a) of this section shall commence on the first of the month following enactment of this Act.

Mr. BOGGS. Mr. Speaker, such equal treatment is now precluded by section 115 of the Social Security Amendments of 1954, which section S. 2984 would repeal.

Under existing law, some temporary, part-time and intermittent employment by the Federal Government is covered by the social security program rather than by the civil service retirement program or other retirement programs for Federal employees. Certain of these positions were covered under social security by the Social Security Amendments of 1950; others were covered under the Social Security Amendments of 1954. Federal civilian employment covered under the 1950 amendments is creditable for civil service retirement purposes if the employee is later employed in a position subject to the civil service retirement system. Those covered under the 1954 amendments may not have such service later credited under civil service retirement simply because of the enactment of section 115 of the Social Security Amendments of 1954.

By the terms of section 115, Federal employees who acquired social security

coverage under the 1954 amendments may never receive credit under a retirement system for Federal employees for this service covered by social security. Most of the employees so affected are those who receive temporary appointments in the field service of the Post Office Department, but section 115 applies also to a small number of other temporary employees.

An employee who has service which becomes creditable for retirement purposes as a result of this bill may, if he wishes, make a deposit to the Civil Service Retirement Fund equal to retirement deductions for the period, plus interest. If he failed to make this deposit, his retirement annuity would be reduced by 10 percent of the amount owed as deposit. This is the same treatment as is given to the temporary employees brought under social security by the 1950 amendments who later acquire coverage under the civil service retirement system.

Mr. Speaker, enactment of the bill would affect around 345,000 Post Office employees and would require additional appropriations to the civil service retirement and disability trust fund of an estimated \$21.1 million a year.

The bill has the approval of both the U.S. Civil Service Commission and the Department of Health, Education, and Welfare. Your committee is unanimous in recommending its enactment.

The bill was ordered to be read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

DISREGARDING OF OASDI AND RAILROAD RETIREMENT INCOME IN DETERMINING NEED FOR PUBLIC ASSISTANCE

Mr. BOGGS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 19915) to make permanent the existing temporary provision for disregarding income of old-age, survivors, and disability insurance and railroad retirement recipients in determining their need for public assistance, which was unanimously reported to the House by the Committee on Ways and Means.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The Clerk read the bill as follows:

H.R. 19915

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, effective with respect to months after October 1970, section 1007 of the Social Security Amendments of 1969 is amended by striking out "and before November 1970".

Mr. BOGGS. Mr. Speaker, under section 1007, the States were required to take action to assure that recipients of public assistance under the federally aided adult public assistance programs—the old-age assistance, aid to the blind and aid to the permanently and totally disabled programs—who also received a social security benefit increase under the 1969 Amendments would realize an in-

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Mr. BOGGS. The gentleman is correct. Of course, it is our very firm hope that the bill will move ahead in the other body, but it is very difficult to give any guarantee.

Mr. PICKLE. I commend the committee for bringing this forward.

Mr. BOGGS. The gentleman's colleague from Texas joined him in sponsoring this legislation.

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. BOGGS. I yield to the gentleman from Texas (Mr. KAZEN).

Mr. KAZEN. Mr. Speaker, I commend the committee for bringing this bill out. It is a much needed bill. A man who has had experience in having a rural hospital closed down because of this particular deficiency, I welcome this bill. I hope it will help all the rural areas of this country.

Mr. BOGGS. I might say to the gentleman the Senate Finance Committee has reported this bill and the overall bill, and for us to pass it will make it possible for them to consider this separately.

Mr. Speaker, I yield to the author of the bill, the gentleman from Texas (Mr. BURLESON).

Mr. BURLESON of Texas. Mr. Speaker, I join the gentleman and my associates who have explained the situation, which is really critical. There is no question about the need or the reasonableness or the practicality of this approach.

Mr. Speaker, when H.R. 19470 was originally introduced, it provided a broader judgment and discretion on the part of HEW and our State health officials in establishing standards for hospitals under medicare.

There must be adequate standards for adequate health care. This we all recognize. There is, however, the practical aspect of what can be immediately provided in certain areas of the country.

In many small towns of the more rural sections there is only one hospital. In many instances it is miles removed from a larger town hospital and is necessary to the community. To establish standards and requirements which cannot be met at this time and a few years in the immediate future, would work an extreme hardship on medicare patients who have no other place to go.

Medicare patients should not be required to leave their home community, their familiar surroundings, and, particularly, their doctor for care in another area not familiar to them.

The bill before the House permits discretion on the part of the Secretary of Health, Education, and Welfare to determine, under certain criteria, whether a registered nurse must be required around the clock at these particular hospitals. Originally, the bill which I introduced included a relaxation of rather stringent requirements in connection with physical facilities. Since there is some latitude already permitted in connection with these standards, H.R. 19470 was amended in the Ways and Means Committee to apply only to registered nurses. Under present law it appears there is no discretion on the part of those who make these determinations to waive for any period of time this provision.

Mr. Speaker, it is my feeling that a greater latitude should be given in the requirements of physical facilities but, in this measure, we are reaching for the possible and it is needed immediately. The Senate Finance Committee has tentatively adopted language applicable only to the nursing requirement and, therefore, it is hoped that with narrowing my original proposal we can get this much accomplished in the hope that these other things will come along in due time.

The bill before us is temporary in nature in that it allows the nursing requirement discretion to be exercised for a period of 5 years. The Secretary may determine on a year-to-year basis whether a hospital can provide around the clock nursing care and if it is found that such is impractical and impossible, then the requirement may be waived year by year for the next 5 years.

I repeat that physical facilities are not involved in this more narrow legislation since some discretion can evidently be applied. The requirements necessary to the interest of the health and safety of patients must be protected to the greatest possible extent. The requirement of a sprinkler system is an example of these requirements. It is true enough that some of the hospitals in the "access" category at the present time must show that efforts are being made to comply with safety standards. Although it is going to be difficult for some of the small rural hospitals to meet this standard, it is likely most will make the effort and, with time allowed, will be able to qualify in a reasonable time. The nursing requirement, however, creates a situation which can not be solved until there is available more nursing and health care personnel. As you know, Mr. Speaker, we have passed legislation for this purpose and other proposals are pending which, it is hoped, within the period allowed, will alleviate the present situation in connection with the availability of nursing care.

I urge the passage of this much needed revision in the Social Security Act which will give relief for this specified time and not work such a hardship on medicare patients who depend entirely upon local care and facilities.

(Mr. BURLESON of Texas asked and was given permission to revise and extend his remarks.)

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. BOGGS. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, will the gentleman tell the House why the same thing should not be accorded for the urban as well as the rural nursing homes?

Mr. BOGGS. Mr. Speaker, I yield to the gentleman from Texas to respond.

Mr. BURLESON of Texas. Mr. Speaker, if I may respond to my colleague, the gentleman from Illinois, there is pending legislation which will do exactly what the gentleman expresses a concern about. There is a gap between urban hospital care and rural care. There is legislation pending which I think will take care of both situations. The gentleman is exactly right. There is a critical situation in the urban areas, and it may be that legislation will be

considered by the Ways and Means Committee in the early part of the coming session which will address itself to that problem.

Mr. YATES. Mr. Speaker, I thank the gentleman for that assurance.

Mr. BOGGS. There is no intention on the part of the committee to discriminate against the urban hospitals or nursing homes. The bill was presented to us as an emergency measure and it contains many safeguards which were written into it.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The Clerk read the bill as follows:

H.R. 19470

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1861 (c) (5) of the Social Security Act is amended by inserting "(A)" after "(5)", and by inserting before the semicolon at the end thereof the following: ", or (B) in the case of an institution having fifty or fewer inpatient beds, provides (under the general supervision of a registered professional nurse) twenty-four-hour nursing service rendered by licensed practical nurses (including vocational nurses) or registered professional nurses, or both".

SEC. 2. Section 1861(c)(8) of the Social Security Act is amended—

(1) by inserting "(A)" after "except that"; and

(2) by inserting before the period at the end thereof the following: "and (B) such other requirements when applied to an institution having fifty or fewer inpatient beds may not include (i) a requirement that the institution have fire sprinklers, (ii) a requirement that any specified number of deaths in the institution be subject to autopsy, or (iii) any nursing service requirement more stringent than the requirement imposed by paragraph (5)(B)".

With the following committee amendment:

Strike out all after the enacting clause and insert the following:

That section 1861(e)(5) of the Social Security Act is amended by adding immediately after the semicolon at the end thereof of the following:

"except that until January 1, 1976, the Secretary is authorized to waive the requirement of this paragraph for any one-year period with respect to any institution, insofar as such requirement relates to the provision of 24-hour nursing service rendered or supervised by a registered professional nurse (except that in any event a registered professional nurse must be present on the premises to render or supervise the nursing service provided during at least the regular daytime shift), when immediately preceding such one-year period he finds that—

"(A) such institution is located in a rural area and the supply of hospital services in such area is not sufficient to meet the needs of individuals residing therein,

"(B) the failure of such institution to qualify as a hospital would seriously reduce the availability of such services to such individuals, and

"(C) such institution has made and continues to make a good faith effort to comply with this paragraph, but such compliance is impeded by the lack of qualified nursing personnel in such area;"

The committee amendment was agreed to.

Mr. BOGGS. Mr. Speaker, the purpose of the bill, as amended, which was in-